

**SUPERIOR COURT
OF THE
STATE OF DELAWARE**

T. HENLEY GRAVES
RESIDENT JUDGE

**SUSSEX COUNTY COURTHOUSE
ONE THE CIRCLE, SUITE 2
GEORGETOWN, DE 19947**

January 3, 2006

Vurnis L. Jones, a/k/a Vurnis L. Gillis

Delaware Correctional Center
1181 Paddock Road
Smyrna, DE 19977

**RE: State v. Jones
Defendant ID No. 9911013398(R-1)
Motion for Postconviction Relief**

Dear Mr. Jones/Gillis:

This is the Court's decision as to your Motion for Postconviction Relief filed on September 27, 2005. The delay in responding to your Motion was due to my request that transcripts be made of your guilty plea and sentence. Those transcripts were made available to the Court on December 20, 2005.

HISTORY

On July 20, 2000, you pled guilty to the offense of arson in the first degree. A presentence investigation was ordered; and on September 8, 2000, you were sentenced, as an habitual offender, to ten (10) years in prison. You did not appeal.

PRESENT CLAIMS

In your Motion, you make several allegations. First you allege that you have now been in jail for approximately twenty (20) years. You don't advise why that is relevant. Then you allege that your attorney really wasn't working for you. There are no specific and concrete allegations to support this conclusory statement.

Then you allege that your attorney's "lack of awareness" resulted in her representation being ineffective. Again, there are no concrete or specific allegations to support this conclusory statement.

Finally, you allege that your attorney was aware that you were under psychotropic medications, and that your decisions were not made by you, but by others for you.

In that portion of the Motion where you are to state why you did not previously raise the aforementioned allegations, you allege that you were not able to provide evidence and did not have a chance to subpoena witnesses which would have helped your case. Also, you allege your confession was coerced.

Your Motion is procedurally barred under Superior Court Criminal Rule 61(i)(1). Applications under this rule are to be filed within three (3) years from the date of judgment. This procedural bar is not applicable to claims that the Court lacked jurisdiction or a claim involving a colorable claim that there was a miscarriage of justice because of a constitutional violation that undermined the fundamental legality, reliability, integrity or fairness of the proceedings leading to the judgment or conviction. Rule 61(i)(5).

I do not find that Rule 61(i)(5) provides you relief from your obligation to file your Postconviction Motion within the three years following your conviction. As to your claims of ineffective assistance of counsel, you are required to make specific and concrete claims as to why your attorney's performance was deficient and how your attorney's deficient performance prejudiced you. You have failed to do so, and therefore, these claims must be denied. *Strickland v. Washington*, 466 U. S. 668 (1984); *Younger v. State*, 580 A.2d 552 (1990).

As to the claim that you were under medication at the time of the plea and were not fully aware of what you were doing, I have had the opportunity to review the transcript of your July 20, 2000 guilty plea. In it, the presiding Judge was fully made aware of issues concerning your competency, including a review of the competency report obtained by your attorneys and the Court prior to the entry of the guilty plea. The presiding Judge was also aware that you were taking medications. He engaged you in a lengthy colloquy as to whether or not you fully understood the proceedings and whether or not you were "under the influence" of any of the medications you were taking. After the colloquy, the presiding Judge was fully satisfied that you knowingly, voluntarily, and intelligently were entering the guilty plea with a consequence of facing up to life imprisonment as an habitual offender. I have independently reviewed the transcript and reached the same conclusion.

You have presented no reasons as to why the procedural bar of Rule 61(i)(1) should not be applied, and therefore, your Motion is dismissed.

IT IS SO ORDERED.

Yours very truly,

T. Henley Graves

THG:baj

cc: Prothonotary
Department of Justice